

Minutes of September 26, 2003 Special Meeting
22 Civic Center Plaza
Santa Ana

1. Chair Beswick called the special meeting to order at 9:00 a.m.

Board Members Present

Board Members Absent

Carole Beswick, Chair
Fred Ameri, Vice-Chair
Jose Solorio
Seymour Van Gundy
John Withers
Joan Dotson
William Ruh

Tentative

Staff Members Present

Gerard J. Thibeault, Executive Officer
Kurt V. Berchtold, Assistant Executive Officer
Michael J. Adackapara, Supervising Water Resource Control Engineer
Mark E. Smythe, Chief, Storm Water (Coastal Waters)
Jorge León, Legal Counsel
Barbara Laffoon, Executive Assistant

State Board Representative

There was none present.

Public Attendance

Don Schulz, Surfrider Foundation
M.J. Foley, Consultant
Bob Von Schimmelmman, City of Orange
Darrell A. Nolte
Ruby Maldonado, County of Orange
Geoff Hunt, County of Orange
Mike Wellborn, County of Orange
John Skinner, SPON
Robert Righetti, City of Garden Grove
A. J. Holman, III, City of Garden Grove
Bob Caustin, Defend the Bay
Garry Brown, Orange County Coastkeeper
Mike Loving, City of Irvine
Beth Krom, City of Irvine
Dindo Carrillo, Orange County Sanitation District
Rick Wilson, Surfrider Foundation
Greg Woodside, Orange County Water District
Mike Recupero
Tim Piasky, CICWQ
Pat Shavics, Bingham McCutchen
Bob Collacott, URS
Randy Fuhrman
Christine Iger
Souri Amirani, City of Santa Ana
Joe Parco, City of Santa Ana

Larry McKenney, County of Orange
Joe Ames, Laguna Hills
Geraldine Lucas, City of Huntington Beach
John Kappeler, City of Newport Beach
Matt Yeager, San Bernardino County Flood Control
Lois Jeffrey, Woodruff, Spradlin & Smart
Jerry King, Solution Strategies
Gene Estrada, County of Orange

2. Public Forum

Darrell Nolta addressed the Board, citing his ongoing study of "Orange County's Unhealthy Beaches: A Study of Failed Government Mitigation Efforts."

Member Solorio, Councilman for the City of Santa Ana, a co-permitee, recused himself from the deliberations and exited the meeting at 9:25 a.m.

3. Public Hearing, Orange County Municipal Storm Water Permittees' Model Water Quality Management Plan (WQMP)

Information pertaining to this item is contained in a verbatim transcript.

Mark Smythe, Chief of Storm Water (Coastal Waters) Section, presented the item.

Speakers on the item were:

Beth Krom, City Council Member, voiced the City of Irvine's support of the proposed WQMP. Although she noted that no plan is without limitations and challenges, the plan as presented met the best interest of those who will be served by it.

Carolyn Cavecche, Mayor Pro-tem of the City of Orange, a director of the boards of OCSD and the Vector Control District of Orange County, thanked the Board and staff for the willingness to work with all the parties on the program. She said the plan was environmentally sound and economically feasible.

David Beckman, NRDC, felt that the Plan was an exceptional effort by an agency like the regional board; however, Mr. Beckman felt that the Plan was not perfect and voiced disappointment that environmental groups such as the NRDC had not been included from the beginning. He voiced concern that an unintended motivation for CEQA analysis to foreshorten the list of pollutants that need to be treated or to attempt to change the standards that applied to the discharge of the list of pollutants might occur.

Bob Caustin, Defend the Bay, also registered his concern with the CEQA issues raised by Mr. Beckman, but thanked the Board for its efforts on the WQMP.

Garry Brown, Orange County Coastkeeper, told the Board that the Plan was not the most perfect document written, but that it was certainly one with which they could live.

Rick Wilson, Surfrider Foundation, commented that although the Surfrider Foundation had been extremely upset at not being included in the process of developing the DAMP and the WQMP, he appreciated the work of David Beckman, Bob Caustin and Garry Brown and their working with the county and regional board to come up with a fair, balanced plan.

Don Schulz, Surfrider Foundation, inquired about the October 1 deadline if the WQMP was not approved, and EO Thibeault explained what would occur.

Christine Iger spoke in favor of the Plan but asked the Board to consider changing the wording on Page 30, 7.2, page 30, the bottom bullet from "after" to "with." After some discussion, the decision was to allow the terminology to remain as presented.

Tim Piasky asked the Board to consider six suggestions for change in the Plan. After consultation, AEO Berchtold reported staff would support the change to add the language in BMPs, and/or BMPS. The two tables referenced — a table of pollutants and a table of BMPs — are linked, and adding the BMP reference was a clarification. Staff did not support the other proposed changes.

Darrell Nolta stated that he felt the environmentalists had been excluded from the process.

Larry McKenney, County of Orange FCD, thanked EO Thibeault and the Board for the effort and voiced his clarification and support of some the language in the document that was questioned by Mr. Piasky.

Bill Roley, Permaculture Institute, complimented the Board on the effort and its results.

Member Withers asked that the Board schedule the item for a fall 2004 Orange County Board meeting to see how well the Plan is working.

The Board consensus was that the Executive Office approve the Water Quality Management Plan as presented with errata.

4. Closed Session:

After citing the regulations for closed session and Emhart Industries as the topic, the Board moved to closed session at 10:34 a.m. and returned to open session at 10:53 a.m.

5. Adjournment

The Board was adjourned to the regular meeting of October 3, 2003, at 9:00 a.m., at the City Council Chambers of Loma Linda

Respectfully submitted:

GERARD J. THIBEAULT
Executive Officer

/bjl

Minutes of October 3, 2003 Meeting
25541 Barton Road
Loma Linda

1. Chair Beswick called the special meeting to order at 9:00 a.m.

Board Members Present

Board Members Absent

Carole Beswick, Chair
Fred Ameri, Vice-Chair
Jose Solorio
Seymour Van Gundy
John Withers
Joan Dotson

William Ruh

Tentative

Staff Members Present

Gerard J. Thibeault, Executive Officer
Kurt V. Berchtold, Assistant Executive Officer
Michael J. Adackapara, Supervising Water Resource Control Engineer
Joanne E. Schneider, Environmental Program Manager
Robert L. Holub, Supervising Water Resource Control Engineer
Ann Sturdivant, Chief, SLIC/DoD/AGT
Mark E. Smythe, Chief, Storm Water (Coastal Waters)
Jorge León, Legal Counsel
Barbara Laffoon, Executive Assistant

State Board Representative

Peter Silva

Public Attendance

Sylvia Vega, CalTrans
Ken Jeske
Grace Pina-Garrett, CalTrans
Hector Salas, CalTrans
Pat King, State Senator Nell Soto
Gene Tanaka, Best, Best and Krieger for City of Colton
Arthur L. Rivera, County of San Bernardino
B. J. Kirwan, Latham & Watkins
Nell Soto, 32nd District State Senator
Michelle Lyman, California Coastkeeper
Cari Cale
Matt Yeager, San Bernardino County Flood Control
Steve Arbelbide, California Steel Industries, Inc.
Gordon Treweek, Chino Basin Watermaster

2. Public Forum

Senator Nell Soto addressed the Board regarding the ongoing issues surrounding perchlorate in the groundwater and urged the Board to be more aggressive in pursuing enforcement actions against the responsible parties.

3. Approval of minutes of the Regular Meeting of August 22, 2003.

Action: It was moved, seconded, and unanimously approved that the Board approve the Minutes of the August 22, 2003 meeting as presented.

4. Consideration of Consent Calendar Items.

Chair Beswick described changes to the Agenda, including the consent calendar. She indicated that Items No. 6 and 12 were postponed. Items No. 10, 11, and 13 had been settled. Item No. 8 was removed from the consent agenda and would be heard following all other items. Following the regular Board meeting adjournment, Item No. 9 would be heard by a three-member panel, as indicated in the published Amendment to the Agenda. Item No. 5 had errata, and Item No. 7 remained as presented.

*5. Amendment of Waste Discharge Requirements, Order No. R8-2003-0028, Bordier's Nursery, Inc., Order No. R8-2003-0065

*7. Amendment of General Waste Discharge Requirements, Order No. R8-2002-0007 (NPDES No. CAG918001) and Order No. R8-2002-0033 — Order No. R8-2003-0085

Action: It was moved by Member Withers, seconded by Member Dotson and unanimously approved that the Board adopt Orders No. R8-2003-0065 for Bordier's Nursery with errata and R8-2003-0085, an Amendment to General Waste Discharge Requirements.

*6. Waste Discharge Requirements, Bruce Hohn/AVMGH II Limited Partnership, Temescal Creek Remediation Project/Inert Waste Disposal, Corona, Riverside County, Order No. R8-2003-0103

This item was postponed.

14. Status Report on Rialto-Colton-Fontana Perchlorate Investigation

Information pertaining to this item is contained in a verbatim transcript.

Ann Sturdivant, Chief of SLIC/DoD/UGT, presented the status of the ongoing perchlorate investigation.

She noted that Emhart Industries' request for a Stay of the Investigation Order is scheduled for a hearing on October 17, 2003 in the State Superior Court, Riverside County. The EO issued an administrative civil liability complaint (ACLC) to Emhart on August 21, 2003, and a hearing regarding the ACLC is scheduled on November 14, 2003.

Zambelli Fireworks waived the right to a hearing and agreed to pay \$20,000 in penalties and to submit an adequate work plan for perchlorate investigation by October 6, 2003.

An ACLC hearing before the Board regarding Pyro Spectaculars & Astro Pyrotechnics is pending, as well as other actions involving US Army Corps of Engineers, Marquardt Company, Mr. Ming and Mr. Peters.

American Promotional Events, Inc. – West and the County of San Bernardino have conducted field activities, and the County is to submit a final report on October 15, 2003.

Other speakers to this item were:

Steven Elie, Musick, Peeler & Garrett, spoke to clarify a question regarding SB1004 and also to note that Pyro Spectaculars had contacted the cities but not the other two purveyors. He also commented on the results of well N-10 installed by the County of San Bernardino.

Gary Lass of Geologic Associates, consultants for the County of San Bernardino, addressed the perchlorate release in the vicinity of the Mid-Valley Sanitary Landfill.

Craig Moyer, Manatt, Pehlp & Phillips, talked about Goodrich's concern with the identification of PRPs and commented on the County's presentation by Geologic Associates.

15. Appointment of a Committee to Nominate Regional Board Officers for 2004

Action: It was moved by Member Withers, seconded by Member Ameri, and unanimously approved that Members Dotson, Solorio, and Van Gundy serve as a Committee to nominate Board officers for 2004.

16. Board Meeting Dates and Locations for 2004

A revised listing of tentative dates and locations was presented. The item will be considered for adoption at the November Board meeting.

*8. Amendment of Cease and Desist Order No. 00-87

Information pertaining to this item is contained in a verbatim transcript.

Presentation of this item was made by Mark Smythe, Chief of Storm Water (Coastal Waters).

Speakers were Michelle Lyman, Counsel for Orange County Coastkeeper (OCCK) and Garry Brown (OCCK).

Sylvia Vega, CalTrans, outlined the efforts CalTrans had taken to date to comply with the Board's Cease and Desist Order. Upon completion of Ms. Vega's presentation, Garry Brown (OCCK) advised the Board that he was not aware of the specific requirements that had been placed on CalTrans. Under the circumstances, he concurred with their need for an extension.

Action: It was moved by Member Solorio, seconded by Member Dotson that the Board adopt Order No. R8-2003-0107 with errata.

A roll call vote of the members was Dotson, Withers, Van Gundy, Solorio, Ameri, and Beswick – aye.

9. Kaiser Resources, Inc.

This item was moved to the panel hearing following the Board meeting.

10. Administrative Civil Liability Complaint, Standard Pacific, Inland Division, San Bernardino County

This item was paid and waived, and no further Board action was required.

11. Mandatory Penalties Complaint, Thrifty Oil Company, Orange County

This item was paid and waived, and no further Board action was required.

12. Mandatory Penalties Complaint, USA Gasoline Corporation, San Bernardino County

This item was postponed.

13. Mandatory Minimum Penalty Complaint, BASF, Orange

This item was paid and waived, and no further Board action was required.

17. Hazardous Waste and Sewage Spill Incident Report

18. Underground Storage Tanks Site Closure Report

19. Underground Storage Tanks Corrective Action Plans

Written reports for Items No. 17, 18, and 19 were accepted as presented.

20. Executive Officer's Report

There was none.

21. Regional Board Member Communications

There were none.

22. Closed Session

There was none.

23. Adjournment

The Board was adjourned at 11:10 a.m. to the regular meeting of November 21, 2003, at 9:00 a.m., at the Eastern Municipal Water District.

Respectfully submitted:

GERARD J. THIBEAULT
Executive Officer

/bjl